

Meeting of 1998-9-2 Special Meeting

MINUTES
SPECIAL CALLED MEETING
LAWTON CITY COUNCIL
SEPTEMBER 2, 1998 - 5:30 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Cecil E. Powell, Mayor, Also Present:
Presiding Bill Baker, Acting City Manager
John Vincent, City Attorney
Brenda Smith, City Clerk

The meeting was called to order at 5:30 p.m. by Mayor Powell. Notice of meeting and agenda were posted on the City Hall notice board as required by State law.

ROLL CALL

PRESENT: G. Wayne Smith, Ward One
Richard Williams, Ward Two
Jeff Sadler, Ward Three
John Purcell, Ward Four
Robert Shanklin, Ward Five
Charles Beller, Ward Six
Stanley Haywood, Ward Seven
Randy Warren, Ward Eight

ABSENT: None.

(Prior to considering the items of business, announcements were made regarding United Way fund raising efforts.)

BUSINESS ITEMS:

1. Consideration of funding sources for capital improvement projects and capital outlay of the City.
2. Consider adopting an ordinance assessing and levying an excise tax beginning January 1, 2000, for a specified period to be used for capital improvement projects and capital outlay of the City, and submitting the ordinance to a vote of the electorate, adopting a resolution setting the date for a special election and establishing the questions to be placed on the ballot.

Vincent said an ordinance and resolution were prepared as a result of the direction from the meeting held last night, calling for an election on November 3. Three versions of the ordinance were prepared; Version A lists the sewer rehabilitation program individually and the other capital improvement projects are shown in general terms, such as drainage, streets, sewer lines other than phase one, and things of that nature.

Vincent said Version B is more specific in terms of what the people are voting on; it specifically states the sewer rehabilitation repair according to the schedule approved by DEQ, and it is still fairly general but is more specific stating required improvements to the landfill, required improvements to the water system including but not limited to water treatment facilities, required improvements to the sanitary sewer system other than set out above, drainage structure improvements and improvements to arterial streets. Another difference in Version B is the statement that if funds are generated in excess of those necessary to accomplish the listed items, then other capital improvement projects may be undertaken at the direction of the council; if insufficient funds are generated to accomplish the listed items, then the council shall determine the priority of the listed projects to be funded from available revenue.

Vincent said Version C is much more specific and lists the sewer rehabilitation as before, but it also lists specific items such as the maintenance building and construction of subtitle D cells #2 and #3 for the landfill, required improvements to pump station one and required modernization at the water treatment facilities, required improvements to the wastewater treatment plant, major and minor water line replacement, drainage improvements, and improvements to major arterial streets. It also contains language previously stated in Version B.

Vincent said the resolution calling for the election on November 3 was also prepared and it was distributed. It is the standard type resolution used in calling a special election for sales tax; it sets forth the amount of 1% beginning January 1,

2000, and ending December 31, 2004, and the proceeds will be deposited into the capital improvement fund of the City.

Beller said the members would need time to go over this before being asked to act on it. Mayor Powell reviewed the language regarding the cases of excess or insufficient funds and Vincent said the sewer rehabilitation is listed first in all three cases and the language applied to the other items more directly than the sewer rehab. Vincent suggested a short recess to allow the members to review the documents.

Mayor Powell said there were several people present and asked if Council would like to receive input prior to a recess. This was acceptable.

Bill Kennard said he was not present to argue or fight over the Water Authority at all, but was here to give you a penny sales tax to fund the police and fire of \$15 million, that leaves about \$3.6 million in the sales tax that can be used for either mass transit or streets, and \$600,000 for the administration of the government. He said in the other part, he would let the Water Authority take back over the water, sewer and landfill. Kennard said there is over \$4.5 million in the water fund that could be used for the water plant and to pay off the Waurika Project; there is over \$1.4 million in the sewer, which \$3 or \$4 would fund the sewer for the 20-year period; the sales tax would be only for five years, providing it worked. He said there is \$2 million in the landfill that could be put back toward the landfill and used by the Authority as directed for only those three items and it could be used for Waurika or a new water plant. Kennard said if the sales tax worked, he would suggest it be made permanent.

Mike Wilkerson, 4809 Cheryl Boulevard, said he thought the Council was trying to move too quickly. He said he had heard Purcell and Beller sit here for a year and say we are going to have to bite the bullet, and last night, there was nothing said like that, leaving a state of confusion. Wilkerson said if the sales tax had to go to 10% or have a \$10 or \$15 rate increase, go ahead, but do not worry about having an election in 30 days when there is no idea of what they are trying to accomplish and that he really did not know how much money the City wanted. Wilkerson said he understood Beller to say last night that we would have to pass the one cent and then turn around by the end of the year and have a water increase and asked if that was right. Beller said yes. Wilkerson said the people needed to know that.

Wilkerson said Council talked about coming back in the spring and looking at ad valorem taxes, and there is no sense in keeping on taking bites out of people; if you are going to get me, I will give up but get me one time and tell me how much you want from me and get it paid, get it done and get it over with. He said he was a Lawton native, and could go back in the newspaper 50 years and see the same minutes of the Council meetings over and over again, with the same problems, and it really is time for the Council to do something. Wilkerson said he did not believe the City was spending too much money. He said he thought a December 8 election date may be available and spending money on an election is a small expense given the projects and needs.

Al Terrill, 811 NW 51st Street, said he had a memo from those interested in the Wolf Creek Meadowbrook flood problem and had outlined within the cover page some procedures to keep everyone as peaceful as possible under the emotional circumstances. He said 12 or 14 letters are attached, and those do not represent all of the letters that have been sent to the Corps of Engineers, but he selected these to show how varied and diverse the interests are and the reasons for not wanting to do some of the things that have been proposed; it is not like they are all tree huggers and in search of a snail darter or simply want to keep the greens at the country club dry; there are varied interests.

Terrill said he had numbered the pages consecutively and on Page 14 or 15 there are affidavits from people who live upstream and flood far after individuals like Mr. Underwood and others downstream because the water is not coming from the north, it is spreading from another direction. In their conversations with Ihler and others, including the Corps, that has not been taken into consideration in their estimation. This is related to this issue. Terrill also asked that Council take some time and understand how this fits into the CIP list, which he thought was a designated list, talking about the drainage portion. He said he was not aware of this being in the CIP designation. Terrill said Council is voting to raise a large amount of money, and a portion of that money is to go for drainage projects and they only know where, but not how or when or what the plan or timing is, and that his wife spoke with Ihler less than 24 hours ago and Ihler said it was not a done deal and the was echoed by the Corps. He asked how we could vote to submit or place a tax when one of the worksheets shows an item that no one know how, when and where it will be accomplished.

Terrill said he understood the sewer project perfectly, but he would hate for items of misunderstanding such as this, and perhaps some of the others, to work against the sales tax that is vital to meet the EPA standards. He said separating them could be considered and lumping them together could draw more opponents than friends on the total package. Terrill distributed information to Council at this time.

Earl Barton, 810 NW 50th Street, said he was here about the same subject as Mr. Terrill. He asked if the Wolf Creek drainage was listed in the tax proposal. Mayor Powell said yes, for \$2.5 million approximately. Barton reviewed a document involving the 1995 CIP listing a \$3 million project under miscellaneous for Wolf Creek drainage and asked if that had been spent. Mayor Powell asked Ihler to explain.

Jerry Ihler, Public Works/Engineering Director, said there is \$1.5 million earmarked for the detention pond east of 67th Street and south of Rogers Lane; the project is in the final design stage and construction advertisement may be ready by the end of the year. The other \$1.5 million has been earmarked and set aside as part of the Corps of Engineer project being examined as a joint effort for the Middle Branch of Wolf Creek, and \$175,000 of the \$1.5 million has been spent for the feasibility study portion with the Corps.

Barton said he did not know how much a detention pond on 67th Street would affect the flood area in Meadowbrook. He said they are talking about destruction of trees, eight houses, and affecting 18 houses, one of which was his. Barton said he had lived in his house for 31 years and bought it because of the creek; most people bought their homes based on where they wanted to live and had heard about destroying the area for the last few years, keeping everyone continually upset. He said there are eight houses that flood, and a man bought one at a Sheriffs sale claiming he did not know there was a problem with flooding but the house had water marks on it. Barton suggested it would be cheaper to buy the eight houses rather than spending millions and millions of dollars, or leave those who want to remain. He said the flooding was not coming from the creek into the Meadowbrook area but from 53rd Street and Euclid and through there, 47th to 51st. Barton said he had walked adjacent to the creek to see how bad the flooding is.

Mayor Powell asked Barton if his main point was that he was not in favor of this being included and Barton said yes. Barton said \$3 million was spent and the City is asking for \$2.5 million more, and that he did not think the \$3 million was ever approved in the 1995 CIP. Barton said he watched Council say last night that they did not want to itemize the projects because it would be too long, and he understood that problem, but discussion came up about 34th Street and that another priority may come up, and do not list it if you are not going to do it. Mayor Powell said he would not allow hiding one penny, much less \$3.5 million.

Purcell said one list shows \$37.5 million showing tentative projects to include, and obviously the sewer rehab is the first project for \$15 million; the other items are sewer repairs, water repairs, and drainage kinds of problems. He said the ordinance will refer to those categories and not the specific project areas. Barton said if the specific projects are not known in advance the Council should not ask for the money. Purcell said \$2.5 million additional was shown for Wolf Creek drainage and asked Barton if he was suggesting removing that from the CIP. Barton said the Corps said it is two or three years away and may never be done, and it could destroy a lot of country club golf course property. Purcell repeated his question and Barton said he did not know why another dollar was being spent on it. Purcell said he thought they were trying to fix the drainage problem. Barton said it would only be for five or six families and all the other families in the area are opposed.

Sadler said it was his intention not to tear out all the trees, which had everyone excited in the past, but to start with the detention pond at 67th and Rogers Lane where the City owns land because the water comes from the north and drains into the area. Improvement should have been considered when the country club was being renovated but it was not. He suggested that the small dams and large chunks of concrete be removed from the creek and grassy, sloping channels be constructed, and these would be acceptable on the golf course as well, and the country club may cooperate with such an idea. If ponds can be installed to slow up the water coming into the area, and if relief is provided to drain the water out of the area through the country club and on down stream, it would appear to be a help. The large, dead trees and trash should be removed from the creek, but no live trees of any significant size should be removed. Sadler said the tax does not start for a year, and that would be about the time this two year study is to be completed, so if funds are needed as a result of the study, there would be a need for it to be included in the CIP, even to be used as matching funds in a federal project.

Beller asked Ihler how wide the channel would be. Ihler said the Corps is looking at a 60 foot wide bottom channel and 120 foot wide top channel as the alternative to provide the best benefit to cost ratio, and the study is not completed yet. The benefit to cost ratio determines if the Corps can participate and to what extent. Beller said it would be at some of these peoples back door. Ihler agreed and said the Corps sent out a public notice identifying that as the project at that time. Ihler said it is one of the most emotional issues they would be faced with and it could become a compromise in doing only the bridges at Meadowbrook and 51st Street, but the benefit to cost ratio is not known on that situation. A workshop will be held in a few months for plans review and feedback; one workshop was held but not many people attended. Ihler said the benefit to cost ratio may not be sufficient to allow the Corps to participate if other alternatives are selected; if that is the case, the City may need the money for the bridge work, which would not affect the trees or other areas. The dollar value of building the large channels is about \$4-\$5 million and Lawtons share would probably be 50% because a large part of the cost is for right of way, and there is not enough money with the \$1.5 million that is currently earmarked.

Baker said the Corps is about a year away from finishing the study and whatever is concluded will require City Council approval of any suggested project. Options will be limited if funds are not included in the CIP package being considered.

Beller read from information stating that phase one would improve the channel from the country club north to approximately Cache Road, so that tells the residents we are headed right up the channel, and they want an assurance that such steps will not be taken. Vincent said the specifics on drainage were not included in any of the three ordinances due to the concerns of these citizens, which he had heard about earlier today, and instead of specifically designating Wolf Creek or 34th Street, all the ordinance says is proposed drainage improvements. Shanklin said that is not good enough to pass. Beller said he asked the question last night as to whether this really had to be on the ballot in November, and that he would ask the question again tonight. He said Shanklin expressed valid concerns last night, Council has received input from these citizens tonight, and the members were provided documents tonight and needed time to read them.

Terrill asked how many years of the sewer project would be funded from the proposed sales tax and Mayor Powell said seven; this is a five-year plan and two years of funding are already in place.

Anthony Cominos, 812 NW 50th Street, emphasized the longevity of his residing at this location and his purchase due to the beauty of the area. He also had watched flooding occur down toward Meadowbrook and on the Liberty bridge area but did not feel it was caused by the channel being discussed now. Cominos asked if there was a retention pond on the east

side of 52nd Street north of Cache Road in a ball park type area and said he had never seen much water in that pond and asked the reason for that. Ihler said it will store water when the channel overflows and backs up. Cominos said that would be a great place to start to hold water. Cominos said the City dug a pretty wide channel north of Cache Road to alleviate problems, and opened an area south of Lee.

Cominos asked if the City was to pay the first \$50,000 of the Corps study and the Corps would fund the remainder. Ihler said the ratio amount the City had was \$145,000 in cash and \$25,000 in in-kind services. Cominos said the study had not been completed yet, and Ihler sent a request to the Corps asking what he proposed to do be approved, and asked why it had gone to the Corps before the study was approved. Ihler said public notice was sent out completely by the Corps of Engineers regulatory branch; public notice is sent out to receive feedback with regard to the environmental aspect. This is a joint project with the City of Lawton and the Corps of Engineers needed to put in an applicant, which is actually the City of Lawton and Ihlers name is shown as a representative as the Public Works Director. Ihler said he did not solicit this to go out, it is something the Corps does on all of its projects, and that he had held discussions with the Corps in that the way it was worded and sent out he was not really happy with it because when you read it, it appears this is the project they will go with, and this project only, and no one else has any other say so, and that discussion was held with the Corps.

Cominos said he did not get one of the notices from the Corps and was upset about that and everyone else on his block got it. He said the notice says name of applicant which makes it appear that it is not the Corps making these suggestions but the City saying this is what we are going to do.

Cominos asked what happened to the detention ponds that were planned to be built on Fort Sill. Ihler said the two detention ponds being considered were on the East Branch of Wolf Creek, which is a different drainage basin and would not have affected the Middle Branch, so City Council voted to put the money toward the Middle Branch.

Cominos said if water is flowing into a funnel and the bottom of the funnel is too small, there will be backwash and overflowing. He suggested the south end be opened first and work back toward the north, but not take out trees, have stumps in the ground, and not have money to do the rest. Cominos said he did not feel there should be a vote for money right now, and that a \$3 charge had been added to the utility bill previously because a tax had not passed, and that was to have been for capital improvements. He said the water amount allowed was decreased from 3,000 gallons to 2,000 gallons and the cost remained the same.

Mayor Powell asked Cominos if he was suggesting no increases at the present time and Cominos disagreed and Mayor Powell asked for an explanation. Cominos said he did not feel that any money should be earmarked toward the Wolf Creek project at this time, and that he was all for the other projects. Cominos said funding had been designated for certain projects in the past and it never got there, and asked that the Middle Branch of Wolf Creek be left alone and to go downstream with in-house equipment and labor to open the mouth and see what happens, and that he did not want a ditch five feet from his property line.

Baker said the \$3 that Cominos referred to was not for capital improvements; that \$3 was a decision the Council made to fund capital outlay or rolling stock, cars, trucks, etc. and not for capital improvement, and it is shown as a C/O charge on the utility bill. Cominos asked if any of the money had been used for rolling stock and Baker said that money is exclusively used for rolling stock and the Council watches it very carefully. Mayor Powell said that can be accounted for and Cominos said he would like to see it.

Shanklin said on the CIP projects that were prioritized, everything the City said it would do has been done and statements to the contrary are not true. He said in the 1985 CIP there was insufficient revenue to do all the projects so naturally some got left off; with the 1990 CIP, it was known that more funds would be generated than the costs of the projects and some of those funds are still being spent, but all have been done as was stated.

Mike Underwood, 4634 Meadowbrook, said he wanted money for the drainage improvements. He said he did not favor the Corps plan and would likely not favor the City's plan because he felt there was a simpler plan. Underwood said water bottlenecks at the country club and cannot get to the main channel; two experts have advised taking the bottlenecks out and they had hired an engineer privately. He suggested two Council members work with them and be able to propose a solution in the next few months that would not cost \$6-7 million and would make everyone happy. Mayor Powell said he had received telephone calls from home owners in the area with various concerns and would like to have a meeting with them.

Purcell said there may be confusion among some in the audience on the total dollars they are trying to come up with and what would be done with the dollars. He said he was willing to scratch the \$2.5 million for Wolf Creek drainage and move the major arterial street improvements back up to \$8 million, but it does not solve the problem. Purcell said the only thing it says in all three versions of the ordinance is that CIP funding could be used for drainage improvements; Council does not have to use any money on Wolf Creek, but if money is not included for drainage, there will not be funding available for any form of improvement.

Mayor Powell said that is justifiable confusion because it is listed at \$2.5 million and described as a project, so there is reason for that concern. Warren said the reason for that sheet was for Council to know what would be done with the money. Cominos said drainage is a very broad term, but if there was a statement that no trees would be cut down, it would be different, and improvements could be made without removing the trees.

Mayor Powell said he appreciated the audience participation and suggested Council proceed with actions or recess if needed.

Warren said he would like to offer a motion to strike Wolf Creek from the list and change the list to read \$8 million for arterials. Vincent said he used the sheet as a guide and only two or three projects in any of the ordinances contain specific projects, and there is no Wolf Creek drainage project listed on any of the three proposed ordinances.

Sadler said money may be needed for bridge work, channel work, or a plan that Underwoods engineers may develop. He said he would fight taking out any trees every step of the way.

Meeting recessed at 6:30 p.m. and reconvened at 6:45 p.m. with roll call reflecting all members present.

Mayor Powell said several meetings had been held and he asked if action was proposed.

MOVED by Powell, SECOND by Warren, to approve Ordinance No. 98-35, Version B which specifically lays out the rehab of the sewer system and improvements to the landfill, required improvements to the water system, including but not limited to water treatment facilities, required improvements to the sanitary sewer system other than the \$15.2 million, drainage structure improvements, improvements to arterial streets, and acquisition and replacement of machinery directly related to those items, and the expenses and so on.

SUBSTITUTE MOTION by Williams, SECOND by Shanklin, that we do not enact any ordinance this evening, that we instruct the City Attorney to bring an agenda item for Tuesday evening to the Water Authority to increase the utilities \$5.70 to fund the third through seventh year of the sewer rehabilitation program and delay this until we can all become comfortable with this, us and staff, and provide this information to the citizens and all speak with one voice.

Baker asked the effective date of the increase and Williams said January 1, 1999.

Purcell said this discussion was held during budget when the chambers were filled with people, and he asked how many wanted to pay for the sewer improvement with a utility rate increase versus a tax increase and no one favored the utility rate increase. He said he would not support the utility rate increase; several calls indicated a desire to be able to vote on a five year sales tax program and not to raise the utility bills.

Beller asked if the \$5.70 should be stated specifically and suggested it could possibly be less if staff does further review. Williams said the Finance Director had provided the number and that was the only reason it was included. Williams said Council has a fiduciary and moral responsibility to take care of this one issue, and EPA and DEQ will be interested in knowing the City has identified the funding for the first phase; also provides time to develop a CIP that everyone can agree on in time, projects and costs. Mayor Powell said the \$5.70 for five years would accumulate \$15,190,500.

Shanklin said the jail issue was passed by the County Commissioners for a quarter percent sales tax for ten years and the City would be competing with that in November if the City goes for the sales tax at that election.

VOTE ON SUBSTITUTE MOTION: AYE: Shanklin, Beller, Haywood, Smith, Williams. NAY: Sadler, Purcell, Warren. SUBSTITUTE MOTION CARRIED.

Appropriate documents will be prepared for consideration by the Water Authority. Beller said the water plant should be included in capital improvement packages to be considered further. Mayor Powell said the meetings had not been fruitless and a lot of work had been done that was needed; future meetings will build on this information.

There was no further business and the meeting adjourned at 6:55 p.m.